Assembly Bill No. 2420

Passed the Assembly August 28, 2002

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Chief Clerk of the Assembly

Passed the Senate August 27, 2002

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Secretary of the Senate

This bill was received by the Governor this _____ day of

_____, 2002, at _____ o'clock __M.

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Private Secretary of the Governor

CHAPTER _____

An act to amend Section 1375.5 of, and to add Section 1375.8 to, the Health and Safety Code, relating to health care service plans.

LEGISLATIVE COUNSEL'S DIGEST

AB 2420, Richman. Health care service plans.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation and licensing of health care service plans by the Department of Managed Health Care and makes the willful violation of any of the act's provisions a crime. This act prohibits a contract between a health care service plan and a risk-bearing organization, as defined, from including any provision that requires the risk-bearing organization to be at financial risk for the provision of health care services unless the provision has been first negotiated and agreed to by the parties or is included within a contract meeting specified criteria.

This bill would provide that no health care service plan contract that is issued, amended, or renewed in this state on or after July 1, 2003, shall require or allow a health care service provider, as defined, to assume or be at any financial risk, as defined, for certain designated items that would, instead, be reimbursed, as specified, by the health care service plan, subject to any applicable copayment or deductible. The bill would specify, however, that a health care service provider may request in writing to assume the financial risk for these items when negotiating an initial contract or renewing a contract with a health care service plan.

Because this bill would impose a requirement regulating health care service plans, the willful violation of which would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 1375.5 of the Health and Safety Code is amended to read:

1375.5. No contract between a risk-bearing organization and a health care service plan that is issued, amended, delivered, or renewed in this state on or after July 1, 2000, shall include any provision that requires the risk-bearing organization to be at financial risk for the provision of health care services, unless the provision has first been negotiated and agreed to between the health care service plan and the risk-bearing organization.

This section shall not prevent a risk-bearing organization from accepting the financial risk pursuant to a contract that meets the requirements of Section 1375.4.

SEC. 2. Section 1375.8 is added to the Health and Safety Code, to read:

1375.8. (a) The Legislature finds the following:

(1) Because of the nature and cost of certain medical items, the financial risk of these items is better retained by the health care service plan than by a health care service provider.

(2) Allowing a health care service provider to take the financial risk for the items described in this section only if the provider specifically requests in writing to assume that risk, will assist in maintaining patient access to health care service providers.

(b) (1) Notwithstanding Section 1375.5, no health care service plan contract that is issued, amended, delivered, or renewed in this state on or after July 1, 2003, shall require or allow a health care service provider to assume or be at any financial risk for any item described in subparagraphs (A) to (F), inclusive, of paragraph (2) when covered under the applicable plan contract and administered in the office of a physician and surgeon or prescribed by a physician and surgeon for self-administration by the patient. ''Self-administration,'' for the purposes of this section, means an injectable medication that can be safely given intramuscularly, or in the muscle, or subcutaneously, or under the skin, by the patient or his or her family member.

(2) The items described in subparagraphs (A) to (F), inclusive, shall, instead, be reimbursed on a fee-for-service basis at the negotiated contract rate or through an alternate funding mechanism mutually agreed to by the health care service plan and

the health care service provider, subject to any applicable copayment or deductible, by the health care service plan.

(A) Injectable chemotherapeutic medications and injectable adjunct pharmaceutical therapies for side effects.

(B) Injectable medications or blood products used for hemophilia.

(C) Injectable medications related to transplant services.

(D) Adult vaccines.

(E) Self-injectable medications.

(F) Other injectable medication or medication in an implantable dosage form costing more than two hundred fifty dollars ($250) per dose.

(3) Notwithstanding the provisions of paragraphs (1) and (2), a health care service provider may assume financial risk for the items described in subparagraphs (A) to (F), inclusive, of paragraph (2) after making the request in writing at the time of negotiating an initial contract or renewing a contract with a health care service plan. No health care service plan may request or require that as a condition of the contract agreement a health care service provider shall request to assume the financial risk for any of those items.

(c) The following definitions apply for the purposes of this section:

(1) ''Financial risk'' means any contractual financial agreement between a health care service provider and a health care service plan for services rendered to a patient or enrollee if the reimbursement from a health care service plan is other than a fee for service rate structure. ''Financial risk'' includes, but is not limited to, capitation payments, case rates, and risk pools.

(2) ''Health care service provider'' means an individual, partnership, group, or corporation lawfully licensed or organized under Division 2 (commencing with Section 500) of the Business and Professions Code, unless specifically exempt from those provisions, or licensed under Section 1204 or exempt from licensure under Section 1206 that delivers, furnishes, or otherwise arranges for or provides health care services. ''Health care service provider'' does not include a health facility as defined in Section 1250, a hospice, a surgical center, or a home infusion provider.

(d) This section shall not preclude any payment by a health care service plan to a health care service provider for the performance of any services related to quality measures and programs.

(e) This section shall not apply to a contract that is between a health care service plan and a health care service provider or a provider organization that meets either of the requirements set forth in paragraph (2) of subdivision (g) of Section 1375.4 or to a contract between licensed health care service plans or to a contract between a health care service plan and a health care service plan with waivers.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2002

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Governor